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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,570	12/26/2001	Masaru Matsuura	K0103-US/OH	8366
466	7590	10-07/2003		
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			EXAMINER MADSEN, ROBERT A	
			ART UNIT	PAPER NUMBER

1761

DATE MAILED: 10/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/025,570	Applicant(s) MATSUURA ET AL.	
	Examiner Robert Madsen	Art Unit 1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

1. Applicant's election of Group I, claims 1-7 in the previous office action is acknowledged. As applicant canceled claim 8, and applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 3 and 4 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification does not disclose how one distinguishes "natural" water, as recited in claim 3, from any other type of water or how one distinguishes sea water from a deep layer, as opposed to sea water from any other layer. For examination purposes, Examiner understands "natural" water as well as sea water from a deep layer to be defined as water or sea water containing 1ppm or more magnesium or calcium ions (e.g. in the case of "natural" water, this would be water that has not been deionized).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Matsuura (US 451433).

6. Matsuura teaches applying an a solution of magnesium or calcium salt or a 10% ethanol solution (i.e. a coagulant solution) to a container after soybean milk was added, sealing the container, and heating the container (Column 4, lines 40-46, Column 5, lines 18-28, and Example 2).

7. Claims 1 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Takeoka et al. (US 5190787).

8. Takeoka et al. applying an a solution of magnesium or calcium salt to a container with soybean milk, sealing the container, and heating the container as recited in claim 1, as well as dropping (Figure 7) the container as recited in claim 7 (Column 2, lines 8-45, Column 3, lines 5-17).

9. Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Sengoku et al. (US 4874630).

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Sengoku et al. applying an a solution of magnesium or calcium salt to a container with soybean milk, sealing the container, and heating the container as recited in claim 1, as well as giving impact by shaking (Abstract, Column 1, lines 59-65, Column 3, lines 4-36, Example 1 from Column 4, line 38 to Column 5, line 8).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsuura (US 451433) as applied to claims 1 and 2 above.

12. Matsuura teaches applying a solution of magnesium or calcium salt. Although Matsuura is silent in teaching natural water or sea water containing salt ions, once it was known to include an aqueous solution with magnesium or calcium ions, to select any particular water source would have been an obvious matter of choice depending on economics and result effective variable of the desired reproducibility of the ions level, since natural and sea waters would have varying levels of ionic concentration and one would have a more predictable/repeatable ion concentration using the more expensive deionized water.

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13. Claims 5 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Matsuura (US 451433), as applied to claims 1 and 2 above, further in view of Sato (JP 03-195467 A).

14. Matsuura is silent in teaching giving impact to the container. Sato also teaches combining soybean milk and a bitter in a container, closing the container, and tapping the container, which would be the same as slapping as recited in claims 5 and 6. Therefore it would have been obvious to include an impact such as slapping since Sato teaches tapping a heat coagulated soybean milk in a sealed container and one would have been substituting one conventional preparation step for another for the same purpose.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Konishi (JP 63-233758 A) and Nada Kobe Seikatsu (JP 61-104980 A) teach adding calcium salt to provide easy release of Tofu from a mold. Kobayashi (JP 60-110260 A) teaches heating soybean milk in a mold, forming tofu and dropping the resulting tofu containing mold. Ueda et al. (US 5363753) teach forming tofu in a covered mold, treating the interior with steam for easy release, and discharging the tofu from the mold. Matsuura et al. (US 6042851), Matsuura et al. (US 6120830), Moriya (US 4664930) teach forming tofu in a sealed container with separate calcium/magnesium addition steps.

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16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Madsen whose telephone number is (703)305-0068. The examiner can normally be reached on 7:00AM-3:30PM M-F.

17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (703)308-3959. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

18. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0061.

Robert Madsen
Examiner
Art Unit 1761



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